

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

UNITED STATES OF AMERICA,)	
Plaintiff,)	
v.)	
STATE OF TEXAS, et al.,)	CASE NOS. 1:24-cv-00008-DAE
Defendants.)	(LEAD CASE)
)	
)	CONSOLIDATED WITH 1:23-cv-01537
)	
)	
LAS AMERICAS IMMIGRANT ADVOCACY)	
CENTER, AMERICAN GATEWAYS; and THE)	
COUNTY OF EL PASO, TEXAS,)	
Plaintiff,)	
v.)	
MCCRAW, STEVEN C. MCCRAW, in his)	
official capacity as Director of the State of Texas)	
Department of Public Safety, and BILL D.)	
HICKS, in his official capacity as District)	
Attorney for the 34th District,)	
Defendants.)	

**UNOPPOSED MOTION BY ADVOCATES FOR VICTIMS OF ILLEGAL ALIEN
CRIME FOR LEAVE TO FILE AMICUS BRIEF IN SUPPORT OF DEFENDANTS AND
IN OPPOSITION TO PLAINTIFFS' MOTIONS FOR INJUNCTIVE RELIEF**

Movant Advocates for Victims of Illegal Alien Crime ("AVIAC") respectfully seeks this Court's leave to file the accompanying *amicus curiae* brief in support of Defendants and in opposition to Plaintiffs' pending motions for injunctive relief.¹

¹ Movant's counsel requested consent from all of the parties' counsel in the lead case, No. 1:24-cv-00008, and none opposes this motion. Consistent with FED. R. APP. P. 29(a)(4)(E), counsel for Movant authored the motion and brief in whole, and no counsel for a party authored this motion or brief in whole or in part, nor did any person or entity, other than the Movant and its counsel, make a monetary contribution to preparation or submission of this motion or brief.

INTERESTS OF AMICUS CURIAE

Amicus curiae Advocates for Victims of Illegal Alien Crime (“AVIAC”) is a 501(c)(3) non-profit organization that was founded in 2017 in response to crimes committed by illegal aliens. AVIAC is led by individuals, including Texans, who have lost family members due to these crimes.² AVIAC’s mission includes being a source of support for such victims across the country and a resource for policies that will enforce our Nation’s immigration laws and defend local efforts to combat crime by illegal aliens. Specifically, AVIAC objects to interference by the Biden Administration with the sovereign right of Texas to defend its property and its residents from the immense, worsening illegal invasion by foreigners.

AVIAC has direct and valid interests in the case at bar with respect to actions by the federal executive branch to interfere with a Texas law enacted by duly elected representatives to protect the people of Texas. AVIAC has valid interests in the sovereign right of Texas to defend its residents against the current crisis of an illegal invasion and the associated unlawful conduct by foreigners here.

REASONS TO GRANT LEAVE TO FILE

As now-Justice Samuel Alito wrote while serving on the U.S. Court of Appeals for the Third Circuit, “I think that our court would be well advised to grant motions for leave to file *amicus*

² <https://www.aviac.us/> (viewed Jan. 24, 2024).

briefs unless it is obvious that the proposed briefs do not meet Rule 29's criteria as broadly interpreted. I believe that this is consistent with the predominant practice in the courts of appeals." *Neonatology Assocs., P.A. v. Comm'r*, 293 F.3d 128, 133 (3d Cir. 2002) (citing Michael E. Tigar and Jane B. Tigar, *Federal Appeals -- Jurisdiction and Practice* 181 (3d ed. 1999) and Robert L. Stern, *Appellate Practice in the United States* 306, 307-08 (2d ed. 1989)). Now-Justice Alito quoted the Tigar treatise favorably for the statement that "[e]ven when the other side refuses to consent to an *amicus* filing, most courts of appeals freely grant leave to file, provided the brief is timely and well-reasoned." 293 F.3d at 133.

Movant provides the following arguments that should assist the Court:

- * Senate Bill 4 was enacted after Texas Governor Greg Abbott declared an Invasion by invoking U.S. Constitution Article I, which is not immigration law. States have the authority to protect their sovereignty and the safety of their residents, and SB 4 is not preempted.

- * Plaintiffs' pre-enforcement challenges to SB 4 are premature, and it should be enjoined because it has not frustrated any of the "purposes and objectives" of federal law.

- * SB 4 corresponds with Congress' intent of removing aliens and also provides for lawful procedures and a mechanism for Texas to arrest, detain, and remove illegal aliens to their homeland.

- * An unenforced federal law does not preempt a similar state law, and it would violate the guarantee of a republican form of government to thereby thwart representative democracy.

AVIAC's amicus brief does "identify law or arguments" that might otherwise escape the Court's consideration. This case is of national importance as the invasion into Texas across its border with Mexico has implications of economic, national security and social consequences on

the outcome of this case. “The extent, if any, to which an amicus curiae should be permitted to participate in a pending action is solely within the broad discretion of the district court.” *Sierra Club v. Fed. Emergency Mgmt. Agency*, 2007 WL 3472851, at *1 (S.D. Tex. Nov. 14, 2007) AVIAC respectfully submits that its proposed amicus brief will assist this Court in deciding the issues before it.

WHEREFORE, the proposed amicus brief is attached, and AVIAC respectfully requests that this Court grant it leave to file it.

Dated: February 8, 2024

Respectfully submitted,

/s/ Paul W. Davis

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